

## CHAPTER 4. GENERAL DIRECTION, GUIDANCE, AND PROCEDURES

### SECTION 8. PUBLIC AIRCRAFT OPERATIONS

**239. GENERAL.** In recent years, there has been a growing concern about the safety of public aircraft, which are statutorily exempt from Federal Aviation Administration (FAA) regulation. Some private operators claim that state and local governments have been competing with them unfairly under the public aircraft exemption.

**NOTE: For further information regarding governmental aircraft operations see Advisory Circular (AC) 00-1.1.**

A. Intergovernmental reimbursement for operations flown has led to a great deal of controversy. Some state and local governments enter into agreements with each other whereby one government reimburses the other for flying firefighting, rescue, or other missions for it. The longstanding interpretation has been that where there is an exchange of money, an operation is “for commercial purposes” and does not have public aircraft status. Many government operators have objected that this interpretation made it impossible to carry out their missions because it is too costly to change many of these aircraft to meet FAA requirements for civil aircraft.

B. On October 25, 1994 The President signed the Independent Safety Board Act Amendments of 1994, which contained a major change in the definition of “public aircraft.” Under the new law, where intergovernmental reimbursement occurs, the aircraft will be civil aircraft unless the appropriate unit of government certifies “that the operation was necessary to respond to a significant and imminent threat to life or property,” and “that no service by a private operator was reasonably available to meet the threat.”

(1) Congress wanted to ensure that passengers are not transported on airplanes of questionable safety. Under previous law, public use aircraft were not subject to the Federal Aviation Act of 1958 (FA ACT) safety regulations to the extent imposed on civil aircraft. Under the Independent Safety Board Act Amendments of 1994, FAA safety regulations, directives, and orders issued for civil aircraft are applicable to all government-owned, nonmilitary aircraft engaged in military transport. The Administrator is allowed to waive FAA requirements for public aircraft provided

that an equivalent level of safety has been established by the governmental entity responsible for the aircraft.

(2) Additionally, during emergency situations, local governments were frustrated because all available resources could not be utilized. Emergency or not, it was prohibited for public agencies to reimburse one another for the use of aircraft. The Independent Safety Board Act Amendments of 1994, gives authority to local governments to ensure that when an emergency breaks out, all aircraft--public and private--will be available to respond without delay. In certain cases, where an imminent threat is looming and private operators are not readily available, public agencies will be allowed to use each other's aircraft.

#### **241. PUBLIC AIRCRAFT.**

A. Aircraft used only for the United States Government shall be designated public aircraft. Aircraft that is owned and operated or exclusively leased (except for commercial purposes) for at least 90 continuous days by the government of a state, a territory or possession of the United States, the District of Columbia, or a political subdivision of that government (except the United States Government) shall be designated as public aircraft.

B. Public Aircraft includes a government-owned aircraft transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

**NOTE: An aircraft described in the paragraph 241(B) shall be considered to be a public aircraft without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government. As long as the unit of government on whose behalf the operation is conducted certifies to the Administrator of the FAA that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.**

Public aircraft does not include a government-owned aircraft transporting property or passengers for

*commercial purposes.* Exceptions to this rule include persons aboard the aircraft *whose presence is required to perform, or is associated with the performance of a governmental function such as:*

- Firefighting
- Search and rescue
- Law enforcement
- Aeronautical research
- Biological or geological resource management

**NOTE: See figure 1.4.8.1. for Public Aircraft Determination-Flow Diagram**

**243. OPERATIONAL NATURE.** The status of an aircraft as public aircraft or civil aircraft depends on the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public aircraft or civil aircraft, it is more precise to speak of particular operations as public aircraft or civil aircraft in nature.

Example: An aircraft owned by a state government is used in the morning for a search and rescue mission that meets the statutory definition of public aircraft in all respects. For the search and rescue operation, the aircraft is a public aircraft. Later that same day, however, when the aircraft is used to fly the governor of the state from one meeting to another, the aircraft loses its public aircraft status and is instead a civil aircraft.

**245. DEFINITION OF KEY TERMS.** The following are various words, phrases, and clauses used in the FAA definition of a Public Aircraft.

A. *“For Commercial Purposes.”* This term means for compensation or hire. The test for determining whether a particular operation is “for compensation or hire” is whether the operator receives direct or indirect compensation for the operation. It is not necessary that a flight be conducted for profit to constitute an operation for “compensation or hire,” the term may be applicable even where there is no intent or ability to make a profit from the flight. Furthermore, no profit need be made; an operation may be “for compensation or hire” even if the operator takes a loss. When the operator is a governmental entity, payment from a party not sharing a common treasury with the governmental entity makes the operation “for commercial purposes.”

B. *“Whose Presence Is Required to Perform.”* This phrase means either a crewmember or a non-

crewmember who will participate in carrying out the governmental function.

C. *“Associated with the Performance of...”* This clause connotes a non-crewmember support person who, while not essential to performance of the governmental function, is expected to contribute to the effectiveness of those whose presence is required to perform the function.

D. *“A Governmental Function such as...”* Not all activities conducted by government agencies are considered “governmental functions” within the meaning of the new definition. The accepted functions include “firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management” or other comparable functions. In each instance, the use of an aircraft must be necessary to perform the function. In some cases, training flights may be considered acceptable, where the training is being performed aboard the aircraft and the aircraft is necessary for the performance of the training. The FAA will permit a government function that involves transportation of passengers to fall within the exemption only if it is “indispensable to the timely execution of a government function.” The following are examples of governmental functions:

(1) *Firefighting.* This term includes the drop of fire retardants, water, and smoke jumpers. It also includes the transport of firefighters and equipment to a fire or to a base camp from which they would be dispersed to conduct the firefighting activities.

(2) *Search and Rescue.* Search and rescue is a term of art meaning aircraft operations that are flown to locate people who cannot be located from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be “associated with” the search and rescue operation. The term “search and rescue” does not include routine medical evacuation of persons due to traffic accidents and other similar incidents.

(3) *Law Enforcement.* Law enforcement operations that employ hovering helicopters with searchlights and law enforcement personnel ready for immediate on-the-spot deployment are public aircraft operations. As long as reimbursement is from a common treasury, the transportation of prisoners falls within the category “law enforcement” and is a public aircraft operation.

(4) *Aeronautical Research.* Aeronautical research (conducting flights to determine aircraft performance in various operating environments) that requires the presence on board the research aircraft

of engineers and technicians who are not part of the crew is a public aircraft operation.

(5) *Biological & Geological Resource Management.* This term means biological and geological resource management that requires the presence of scientific and technical passengers to gather information that can only be gathered by direct observation from the air.

E. *Cost Reimbursement Agreement.* This term means an agreement, either verbal or written, between two separate units of government, whereby one unit operates an aircraft on the others behalf and is reimbursed by the other for the cost of the operation. If the two agencies share a common treasury, the operation is not “for commercial purposes.”

F. *Unit of Government.* This term means a government. The singular characteristic of a unit of government in this context is its common treasury. This interpretation permits Economy Act reimbursement among federal agencies without the need for compliance with Federal Aviation Regulations (FAR) Part 121, FAR Part 125, or FAR Part 135. However, should federal agencies ever receive reimbursement from outside the federal government, they would need to ensure that they are in compliance with either FAR Parts 121, 125, or 135, depending on the type of aircraft operation.

G. *Significant and Imminent Threat.* “Significant and imminent threat to life or property (including natural resources),” means a situation in which the authority responsible for responding to the threat has determined that serious injury, death, or significant damage to property may occur before land- or water-borne assistance can be deployed to counter the threat effectively. It is not expected that FAA inspectors will challenge significant and imminent threat determinations made by units of government.

H. *No Service by a Private Operator Reasonably Available.* “No service by a private operator was reasonably available to meet the threat,” means that no private operator is able to deliver an aircraft capable of performing the minimum tasks by the latest time at which such aircraft would provide an effective response, as determined by the authority charged to respond to the threat. It is not expected that FAA inspectors will challenge determinations made by units of government that no private operator was reasonably available to meet the threat.

I. *Aviation Safety Program.* The Administrator or the Administrator’s delegate may not grant an exemption to a unit of government without certifying that the aviation safety program of the unit of government is “effective and appropriate to ensure safe oper-

ations of the type of aircraft operated by the unit of government.”

## 247. BRINGING OPERATIONS INTO COMPLIANCE.

A. *FAR Part 91.* The pilot-in-command (PIC) of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft. In case of an in-flight emergency the PIC is authorized to deviate from any rule in FAR Part 91 to the extent necessary to meet the emergency. However, any PIC that deviates from a rule in FAR Part 91 will be required, upon the request of the Administrator, to send a written report of that deviation to the Administrator. FAR Part 91 prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. The PIC is responsible for determining whether the aircraft is in condition for safe flight. The PIC is required to terminate the flight when unairworthy mechanical, electrical, or structural conditions occur. In addition, the PIC may not operate the aircraft without complying with the operating limitations specified in the approved airplane flight manual (AFM) or rotorcraft flight manual (RFM), markings, and placards, or as otherwise prescribed by the certificating authority of the country of registry.

B. *Determining FAR Part 125 Eligibility.* If the operator uses an airplane with seating capacity (configuration) for 20 or more passenger seats or a maximum payload capacity of 6,000 pounds or more and if the operator is not engaged in “common carriage,” as described below, then FAR Part 125 applies. If, however, the operator is engaged in “common carriage,” then either FAR Part 121 or FAR Part 135 will apply. FAR Part 125 is only applicable to large airplane operations in other than common carriage. A person is considered to be engaged in “common carriage” when “holding out” to the general public or to a segment of the public as willing to furnish transportation within the limits of its facilities to any person who wants it. FAR § 125.11(b) prohibits FAR Part 125 certificate holders from conducting any operation which results directly or indirectly from holding out to the general public. Further information regarding common carriage vs. private carriage can be found in AC 120-12. Examples of holding out are as follows:

- Advertising through telephone yellow pages
- Billboards
- Television
- Radio
- Individual ticketing

**NOTE: An operator could reconfigure an airplane with more than 20 seats by removing some of its seats so that it has a passenger seating capacity of 19 or less. FAR Part 125 would not be applicable, unless the calculated maximum payload capacity is 6,000 pounds or more. Maximum payload capacity is defined in FAR § 125.9. If, through calculations in accordance with this definition, the maximum payload is determined to be 6,000 pounds or more, FAR Part 125 is applicable regardless of the number of seats.**

#### **249. FAR PARTS 121 OR 135.**

*A. Government-owned Aircraft.* When a government-owned aircraft is operated “for commercial purposes,” the requirements contained in either FAR Part 121 or FAR Part 135, depending on the type of operation, must be met. Generally, FAR Part 121 applies to domestic, flag, and supplemental air carriers and commercial operators of large aircraft, while FAR Part 135 applies to air taxi operators and commercial operators. An operator should consult the applicability provisions of each part (FAR §§ 121.1 and 135.1) to determine whether it is FAR Parts 121 or 135 that applies to a particular operation. The regulations in FAR Parts 121 and 135 provide the government operator with the certification, training, and qualification requirements necessary for the development of an acceptable aviation safety program. The government operator should contact the nearest FAA flight standards district office (FSDO) for assistance and guidance on the certification process. The FSDO manager will assign an FAA aviation safety inspector to assist the government operator during the certification process. Initial inquiries about certification or requests for applications should be in writing or by personal visit to the FSDO. The FSDO will provide the applicant with a videotape on certification and a copy of FAA AC 120-49, “Certification of Air Carriers.” Once the videotape and the advisory circular have been reviewed, the applicant will complete FAA Form 8400-6, “Preapplication Statement of Intent,” and the FSDO manager will assign a certification team to assist the applicant through each phase of the certification process.

*B. Economic Authority.* On April 17, 1995, the Department of Transportation (DOT) issued Order 95-4-28 pertaining to the matter of Government Aircraft Owners and Operators exemption from Title 49 of the United States Code (U.S.C.) § 41102. The Order states that “we grant an exemption from the requirements of 49 U.S.C § 41102 to the extent necessary to allow all owners and operators of government aircraft to provide not-for-hire, cost reimbursable transportation incidental to official government busi-

ness.” As a result Government aircraft operators are not required to receive or apply for DOT economic authority.

**251. PILOT CERTIFICATION.** All civil aircraft are required to be operated by pilots certificated under FAR Part 61. FAR Part 61 prescribes the requirements for issuing pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

*A. Domestic Aircraft.* Pilots operating civil aircraft of U.S. registry are required to have in their personal possession a current pilot certificate issued to them under FAR Part 61. U.S.-registered aircraft may be operated in a foreign country with a pilot license issued by that country.

*B. Foreign Aircraft.* Foreign aircraft may be operated in the U.S. by pilots who have in their personal possession current pilot certificates issued under FAR Part 61 or a pilot license issued to them or validated for them by the country in which the aircraft is registered.

**253. AIRCRAFT CERTIFICATION.** Government aircraft operations that are no longer eligible for public aircraft status must meet civil airworthiness standards for certification of civil aircraft. This includes the aircraft's engines and propellers as well as the aircraft as a whole. All civil aircraft must have a current airworthiness certificate to operate in the national airspace system (NAS). All civil aircraft must meet the following requirements:

*A.* The aircraft must have an effective U.S. registration certificate on board during all operations as required by FAR § 91.203

*B.* An appropriate and current airworthiness certificate must be displayed in accordance with FAR § 91.203(b). An airworthiness certificate is effective as long as the maintenance, preventative maintenance, and alterations are performed in accordance with FAR Parts 21, 43, and 91, as appropriate, and the aircraft is registered in the United States.

*C.* The aircraft must have been inspected in accordance with FAR § 91.409 within the preceding 12 months.

(1) If the government agency plans to use a progressive inspection program, it must submit a written request to the FAA. The request must be sent to the FSDO having jurisdiction over the area in which the applicant is located and the applicant must be able to meet the requirements identified in FAR § 91.409(d).

(2) Large airplanes, turbojet multi-engine airplanes, turbopropeller-powered multiengine airplanes, and turbine-powered rotorcraft must have a program approved that meets the requirements of FAR § 91.409(e).

D. FAR Part 43 prescribes the rules governing the maintenance, preventative maintenance, rebuilding, and alteration of civil U.S.-registered aircraft. All maintenance and required inspections must have been completed by a person authorized under FAR §§ 43.3 and 43.7. Additionally, the maintenance and inspections performed must be recorded in accordance with FAR §§ 43.9 and 43.11.

E. Any alterations to the aircraft must have been accomplished and returned to service by an appropriately certified and authorized person under FAR Part 43.

F. Aircraft operations used for compensation or hire must be performed in accordance with the appropriate Air Carrier Certificate.

G. Government agencies may conduct both public and civil aircraft operations with the same aircraft. Aircraft which hold airworthiness certificates should be handled as follows:

(1) If the operation is a public aircraft operation and no modifications are made to the aircraft, the airworthiness certificate may be displayed in the aircraft as required by FAR § 91.203(b).

(2) When the public aircraft operation involves altering the aircraft temporarily, it is not necessary for the operator to surrender the airworthiness certificate or remove it from the aircraft. However, an inspection and log book entry will be required prior to the aircraft operating as a civil aircraft. For example, when the public aircraft operations requires the removal of a door during the "Public Aircraft" operation, the door installation and return to service must be performed by an authorized individual before the aircraft is operated as a civil aircraft.

(3) Where the modification is substantial, and involves more than the simple removal and/or installation of equipment, the operator should obtain the required FAA-approval before conducting civil aircraft operations. Where the modification is such that it permanently invalidates the airworthiness certificate of the aircraft, the FSDO should seek the voluntary surrender of the certificate. If the aircraft owner refuses to surrender the certificate, the FSDO should follow the procedures in FAA Order 2150.3A, Compliance and Enforcement Program.

(4) The FAA has allowed a certificate holder who also conducts public aircraft operations to retain

the aircraft on its operations specifications when certain requirements provide that permanent installations and modifications are approved by the FAA. Temporary alterations must be corrected and the appropriate inspection and maintain entries must be made before the aircraft is returned to service.

**NOTE: An operator of an aircraft operated in public aircraft status for any period of time cannot obtain a standard airworthiness certificate without showing that the aircraft meets all the criteria for that airworthiness certificate as prescribed by the regulations. Making such a determination may be difficult when the aircraft has not been maintained, altered, or inspected in accordance with the regulations. To facilitate receiving a standard airworthiness certificate, the aircraft records should indicate, among other requirements, that the aircraft has been maintained according to the manufacturer's instructions, and that any modifications to the aircraft either were removed or approved by the FAA.**

**255. TYPE-CERTIFICATION.** Prior to airworthiness certification, the type design must be certificated by the FAA. Title 49 United States Code (U.S.C), § 44705 (formerly § 603(c) of the FA Act of 1958) makes a type-certificate a prerequisite for issuance of airworthiness certificates. Each government operator who wishes to determine the eligibility of its aircraft for civil operations must contact the responsible geographic aircraft certification office (ACO) for assistance in seeking either:

- Design approval for aircraft that has been type-certificated in the past
- Type-certification approval of aircraft that has been operated in the past under public aircraft status without a type-certificate

**257. AIRCRAFT PREVIOUSLY TYPE-CERTIFICATED.** If the aircraft was originally built to an FAA type-certificate, it will be necessary for the ACO to review the type-certificate data and make a comparison of the aircraft's current design and condition. The applicant will provide the FAA ACO with technical information necessary to assist in the following:

- Review of type design for any engineering changes or modifications
- Listing of replacement parts and technical data on the replacement parts
- Review of Airworthiness Directives (AD) that have applied
- Review of previous operating regimes

- An application of later regulatory amendments or special conditions for any changes found necessary to establish current airworthiness standards for safe design (if applicable)

**NOTE: It is important that the applicant provide accurate records of any major and or minor changes necessary to establish the current design. The applicant should update all maintenance manuals as necessary. If there has been a substantial change in the type design, e.g., in the configuration, power, power limitations, speed limitations, or weight that have proven so extensive that a substantially complete investigation of compliance with the applicable regulations is required, the owner will be required to apply for a new type-certificate.**

## **259. AIRCRAFT WITH NO PRIOR CERTIFICATION.**

It is unlikely that the FAA will be able to grant exemptions from type-certification and airworthiness requirements for aircraft that have no history of civil certification. However, if a government operator still wishes to apply, it should file an application for type-certificate on FAA Form 8110.12. The applicant must submit for approval all type design data for the aircraft, including the aircraft's engines and propellers, to the ACO in its geographic area. The application must be accompanied by a three-view drawing and available basic data so that a preliminary regulatory certification basis may be established. The applicable airworthiness certification regulations, FAR Parts 23, 25, 27, 33, 35, etc., will be those that are in effect on the date of application for the certificate, unless otherwise noted in the regulations. The applicant must make all inspections and tests available to allow the FAA to conduct a complete certification compliance program, including all flight and ground tests, inspections, and test analyses necessary to determine compliance with the applicable requirements of the FAR's.

## **261. AIRWORTHINESS CERTIFICATION.**

Before a standard airworthiness certificate can be issued, the applicant must show that:

- The aircraft conforms to its approved type design and is in condition for safe operation
- Any alterations were accomplished in accordance with an approved Supplemental Type-certificate (STC) or other FAA-approved data, such as a field approval as reflected by the issuance of an FAA Form 337, "Major Repair or Alteration"
- All applicable AD's have been complied with concerning the aircraft in question
- If altered while in another category, the aircraft continues to meet, or has been returned to, its approved type design configuration and is in a condition for safe operation

**263. PROCEDURES FOR OBTAINING AN AIRWORTHINESS CERTIFICATE.** Applicants interested in obtaining an airworthiness certificate must follow the following procedures.

A. Applicants are required to submit a properly executed "Application for Airworthiness," FAA Form 8130-6, and any other documents called for in FAR Parts 21 and 45 for certification. An applicant may obtain an FAA Form 8130-6 from the local manufacturing inspection district office (MIDO) or FSDO. The applicant must have completed and signed the appropriate sections prior to submitting it to the FAA.

B. The applicant is required to make available for inspection and review the aircraft, aircraft records, and any other data necessary to establish conformity to its type design.

C. The applicant must properly register the aircraft in accordance with FAR Part 47, "Aircraft Registration."

D. The applicant is also required to show that the aircraft complies with the noise standards of FAR §§ 21.93(b), 1A21.183(e), FAR Part 36, or FAR Part 91, as appropriate. This may be demonstrated through the use of data. Also, the applicant is required to show that the aircraft's fuel venting and exhaust emission systems comply with the requirements of FAR Part 34. In addition, the applicant must show the aircraft meets the applicable passenger emergency exit requirements of FAR § 21.183(f) and Special Federal Aviation Regulation (SFAR) 41.

E. During the course of the certification process the FAA will review records and documentation to the extent necessary to establish that:

- All of the required records and documentation are provided for the aircraft; i.e., an up-to-date approved flight manual, a current weight and balance report, equipment list, maintenance records, FAA-accepted Instructions for Continued Airworthiness (ICAW) and/or FAA-acceptance maintenance manual(s) (MM), and any other manuals required by FAR §§ 21.31, 21.50, 23.1529, 25.1529, 27.1529, 29.1529, 33.4 and 35.4. These documents must be in the English language
- The applicant should ensure that the appropriate markings are present in accordance with FAR Part 45. The applicant should make available the Type-certificated Data Sheets

(TCDS), aircraft specification, or aircraft listing that is applicable

- The inspection records and technical data should reflect that the aircraft conforms to the type design, and all required inspections, including those provided for in FAR § 21.183(d)(2), which provides for a 100 hour inspection, as described in FAR § 43.15 and Appendix D. The applicant must also show that the tests the aircraft has been subjected to have been satisfactorily completed, the records completed, and reflect no unapproved design changes
- The aircraft has been flight tested, if required. If it has not been flight tested, the FAA may issue a special airworthiness certificate as provided for in FAR §§ 21.35 and 21.191(b). The flight test must be recorded in the aircraft records in accordance with FAR § 91.417(a)(2)(i) as time in service as defined in FAR Part 1. Aircraft assembled by a person other than the manufacturer (e.g., a dealer or distributor) must have been assembled and, when applicable, flight tested in accordance with the manufacturer's FAA-approved procedures
- Large airplanes, turbojet, or turbopropeller multiengine airplanes must comply with the inspection program requirements of FAR § 91.409(f) or other FAR's referenced therein. A supplemental structural inspection program is also required for certain large transport category airplanes. Reference AC 91-56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes"

*F. Inspection of the Aircraft.* Aircraft submitted by the applicant for inspection will be inspected, by an airworthiness inspector for the following:

- The nationality and registration marks and identification plate should be displayed and marked in accordance with FAR Part 45. The information presented should agree with the application for airworthiness certification
- All equipment, both required and optional, should be properly installed and listed in the aircraft equipment list
- Instruments and placards should be located in the appropriate places, installed, and properly marked in the English language
- All applicable AD's must have been complied with and appropriately recorded

- The aircraft should conform to its approved U.S. type-certificate and should be in a condition for safe operation
- All aircraft systems should have been satisfactorily checked for proper operation. The operation of the engine(s) and propeller(s) should be checked in accordance with the aircraft manufacturer's instructions

G. If it is determined that the aircraft meets the requirements for the certification requested, the FAA airworthiness inspector or authorized designee will:

- Make an aircraft log book entry per paragraph 237 (a) of FAA Order 8130.2C entitled "Airworthiness Certification of Aircraft and Related Products"
- Issue FAA Form 8100-2, "Standard Airworthiness Certificate"
- Complete sections V and VIII of FAA Form 8130-6, as appropriate
- Examine, review, and route the certification files as appropriate

H. If the aircraft does not meet the requirements for the certification requested and the Airworthiness Certificate is denied, the applicant will receive a letter stating the reason(s) for denying the certificate. A copy of the denial letter will be attached to the application and forwarded to the FAA Aircraft Registry to be made a part of the aircraft record.

**265. EXEMPTIONS.** The FAA Administrator has the authority, in accordance with FAR Part 11, to grant exemptions to units of government, whose aircraft operations have lost their public aircraft status, if certain requirements are met. Exemptions will be granted only if it is clearly in the public interest. The Administrator may issue an exemption, to a unit of government, only if:

A. The Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

B. The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government. To show undue economic burden, the petitioner for exemption should submit the following information with their petition for exemption:

- The purpose and duration of the aircraft operations for which exemption is sought

- The estimated cost of bringing the petitioner's aircraft operations into compliance with civil aircraft requirements
- The estimated cost of obtaining the same aircraft operations from a private operator.

The petitioner should also submit certification of the following types of information, as appropriate:

- That the petitioner has made a reasonable search and solicitation for services that would meet the petitioner's needs and that no such services were available
- That the petitioner lacks the resources to pay for the required services
- That the petitioner, by acquiring the services of a private operator, would incur additional expenses resulting from existing aircraft lease payments, mortgages, prorated cost sharing agreements, or other financial obligations
- That adequate service by private operators was unavailable at less than 110 percent of reasonable rates. Reasonable rates are those that are normally available and paid by the petitioner when doing business with private operators
- That unique circumstances, such as remote operations, are present which require special aircraft or pilot skills that are not available except at costs exceeding 110 percent of the costs the petitioner would incur when engaging in a similar operation in the area

**NOTE: In the interest of administrative efficiency, the Administrator's authority to grant exemptions to units of government has been delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service.**

## **267. GOVERNMENT AIRCRAFT OPERATOR SURVEILLANCE.**

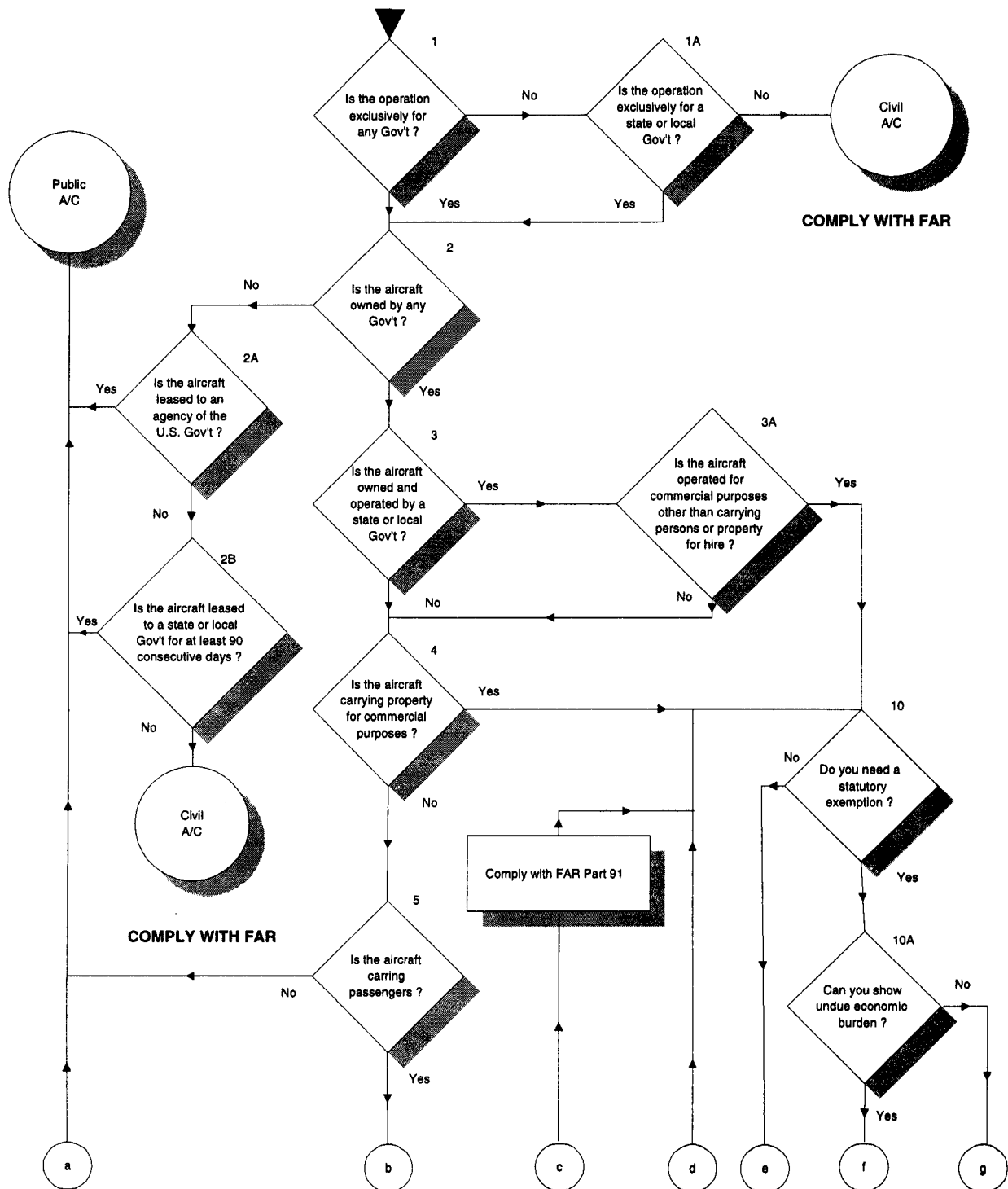
Government aircraft operators, holding any type of FAA certification, will be included in the normal surveillance activities such as, spot inspections of the aircraft and aircraft records. This includes any aircraft exclusively leased to the Federal government. Any aircraft or operation certificated by the FAA is subject to this surveillance regardless of whether they are operating as "public" or "civil." For example, if an operator's operation is considered "public" or "private" and the hold an airworthiness certificate, their maintenance records are eligible for review. If you encounter an operator who states they are operating under the "public" status and you have questions concerning that operation, contact your regional public aircraft coordinator for assistance.

**NOTE: Government-owned aircraft operators who are conducting public aircraft operations must be included in the FSDO's annual planned surveillance activities to ensure that their status remains unchanged.**

## **268.-276. RESERVED**

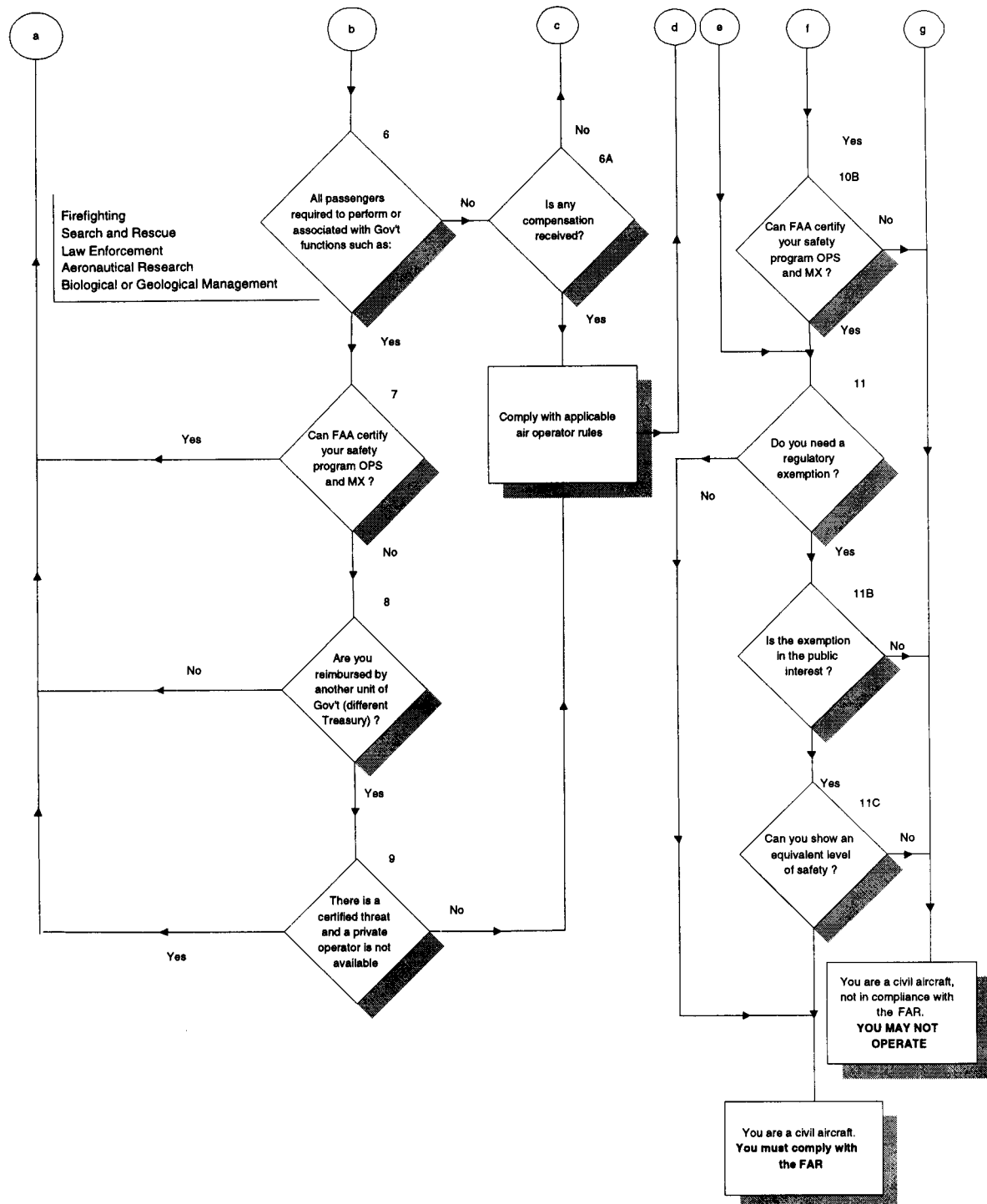


**FIGURE 1.4.8.1**  
**PUBLIC AIRCRAFT DETERMINATION--FLOW DIAGRAM**



**FIGURE 1.4.8.1.-Continued**  
**PUBLIC AIRCRAFT DETERMINATION--FLOW DIAGRAM**

**[PAGES 1-169 THROUGH 1-180 RESERVED]**



[PAGES 1-169 THROUGH 1-180 RESERVED]